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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

FILE: B-202842

DATE: August 11, 1981

MATTER OF: W. M. Grace, Inc.

DIGEST:

Where solicitation does not contain adequate specifications for contract performance, cancellation and readvertisement of the solicitation with revised specifications is proper, since award to low bidder with intention to negotiate necessary changes to specifications as advocated by protester would be prejudicial to other bidders and is improper.

W. M. Grace, Inc. protests the cancellation of invitation for bids (IFB) No. N62470-81-B-2919 issued by the Naval Amphibious Base, Little Creek, Norfolk, Virginia. The IFB sought bids for janitorial services at the base. The Navy canceled the IFB on April 1, 1981, allegedly due to changes in the work requirements. Grace, the incumbent contractor and the apparent low bidder under the IFB, contends the cancellation was improper and requests reinstatement of the IFB. We deny the protest.

The Navy opened bids on March 10, 1981, and soon thereafter requested that Grace confirm its bid due to the substantial difference between its bid and the other bids received. (Grace's low bid of \$5,820 was approximately \$3,000 below that of the second low bid and \$6,000 below that of the third low bid.) Grace did so and explained it was able to bid low because the contract required fewer services than its previous contract required. Grace informed the Navy that if additional services were needed, the parties could negotiate a change order. Subsequently, the Navy determined that its needs exceeded what was indicated in the IFB, canceled the solicitation, and issued a new one with a revised scope of work.

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Grace alleges the cancellation was not due to a modification of the job requirements, but rather to an unjustified "buy-in" determination by the Navy.

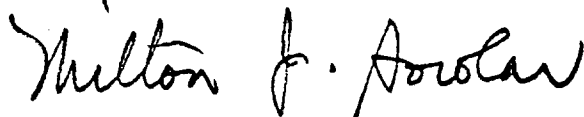
The Defense Acquisition Regulation (DAR) states that after bids have been opened, award must be made to the responsible bidder who submits the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation. DAR § 2-404.1(a)(1976 ed.). A number of reasons considered sufficiently compelling to justify cancellation are listed, including inadequate or subsequently revised specifications cited in the invitation, and failure of the solicitation to provide for consideration of all factors of cost to the Government. DAR § 2-404.1(b).

We believe the facts here justified the cancellation and the subsequent readvertisement, because the original specifications did not reflect the Navy's actual needs. For example, the original solicitation did not provide for a minimum level of effort to be provided by the contractor; it understated the required frequency of performance for various tasks; and did not specify certain tasks which were required (such as window washing and venetian blind cleaning in certain office areas). The revised specifications corrected these and other deficiencies. These revisions to the specifications are significant and this fact is substantiated by the bids received on resolicitation, wherein Grace raised its bid to \$13,920 from its original bid of \$5,820.

Preservation of the integrity of the competitive bid system requires that an agency not award a contract competed for under a given specification with the intention of changing to a different specification after award. A & J Manufacturing Company, 53 Comp. Gen. 838 (1974), 74-1 CPD 240. An attempt by the contracting officer to negotiate changes with the low bidder which amount to a substantial deviation from the original specifications would be prejudicial to the other bidders because the contract after negotiation would not be the same as that offered the other bidders under the invitation. Thus, as the changes made to the specifications are of a material nature, the Navy was presented with a compelling reason to cancel and it acted appropriately in doing so.

Moreover, the admonition contained in DAR § 2-404.1(a) (1)(2) that agencies not cancel and readvertise due solely to increased requirements for the item being procured does not apply to the instant protest as Grace believes. Rather, it applies to situations where the Government determines additional quantities of an item are needed which can be separately obtained under a new procurement. It does not cover the situation here.

The protest is denied.

A handwritten signature in cursive script, reading "Milton F. Aorolan".

Acting Comptroller General
of the United States